

CITY OF BELMONT
PLANNING COMMISSION

ACTION MINUTES

TUESDAY, AUGUST 21, 2007, 7:00 PM

Chair Parsons called the meeting to order at 7:00 p.m. at One Twin Pines Lane, City Hall Council Chambers.

1. ROLL CALL

Commissioners Present: Parsons, Frautschi, Horton, Mayer, McKenzie, Mercer, Wozniak
Commissioners Absent: None

Staff Present: Community Development Director de Melo (CDD), Senior Planner DiDonato (SP), Zoning Technician Gill (ZT), City Attorney Zafferano (CA), Recording Secretary Flores (RS)

- 2. AGENDA AMENDMENTS** – The Commission consented to Chair Parsons’ request to move Item 5C ahead of Item 5B.

- 3. COMMUNITY FORUM (Public Comments)** - None

4. CONSENT CALENDAR

4A. Minutes of July 17, 2007

MOTION: By Commissioner Wozniak, seconded by Commissioner Mayer, to accept the Minutes of July 17, 2007, with corrections to Page 13, Item 7D, to indicate “Commissioner *Mercer* called attention to ...” and “Commissioner *Wozniak* was pleased that...,” as well as on Page 7, fifth paragraph, “Senior *Planner* DiDonato explained...”

Ayes: Wozniak, Mayer, Horton, Mercer, Parsons
Noes: None
Abstain: McKenzie, Frautschi

Motion passed 5/0/2

Vice Chair Frautschi added for the record that he abstained because he was absent from the July 17 meeting, but that he had reviewed the tape and attendant minutes and is informed on the proceedings.

5. PUBLIC HEARINGS

5A. PUBLIC HEARING – 779 Buckland Avenue

To consider a Single Family Design Review to construct a 1,194 square foot addition to existing 2,357 square foot single-family residence (53 sq. ft. of floor area to be removed). The project proposal will bring the total square footage of the residence to 3,498 square feet (3,500 sq. ft. maximum building size permitted for this site).

(Appl. No. 2007-0033) APN: 045-204-210; Zoned: R-1A (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15303

Applicants/Owners: Mark & Patricia Gallelo

ZT Gill summarized the staff report, recommending approval with the conditions as attached.

Responding to questions from the Commission, ZT Gill confirmed that:

- The unusual roofline is a design element that gives the impression that there are hip roof lines, but the roof is actually flat on the top, and that the Public Works Department has reviewed the drainage issue and will address it again at the final building permit plans review.
- The net haul-off of cut and fill is 25 cubic yards. The cut is probably where the existing car port, landscaping, and entry way are. Applicant could better explain where it is to be distributed.
- The picture of reddish tile roof is accurate.
- The entry vestibule will have a circular roof with a point.
- No trees are being removed and none will be put in the back yard. It will be primarily shrub plantings, perennials and some ground cover.
- The grape stake and chain fencing are going to be replaced by new fencing.
- The back-out portion of the driveway is going to stay as is.
- The lower level consists of a family room, 2 bedrooms, bathroom and hall with stairs that lead up to the main level, for a total of 742 sq.ft.

Mark Gallelo, applicant, clarified that the elevation of the roof on the main structure has not changed and that most of the cut and fill will happen in the back yard as they are attempting to create a somewhat level lawn area for the kids, using what fill they have available. The top of the roof will be visible from the top of Buckland Avenue but the neighbors cannot see into that area because their windows are right above the roof line.

Chair Parsons opened the Public Hearing. No one came forward to speak.

MOTION: By Vice Chair Frautschi, seconded by Commissioner Horton, to close the Public Hearing. Motion passed 7/0 by voice vote.

Vice Chair Frautschi thanked the Gallelo's for upgrading the onsite parking and thorough and sincere neighborhood outreach, and supported the redesign.

Commissioner Mercer supported the expansion, but recommended that the roof tile color be changed to a brown earth tone. Commissioner McKenzie concurred.

MOTION: By Vice Chair Frautschi, seconded by Commissioner Mercer, to adopt the resolution approving a Single-Family Design Review for 779 Buckland Avenue (Appl. No. 2007-0033) with conditions attached and the added condition that the roof tile color be changed from red to a brown earth tone.

Ayes: Frautschi, Mercer, Horton, Mayer, McKenzie, Wozniak, Parsons

Noes: None

Motion passed 7/0

Chair Parsons stated that this item may be appealed to the City Council within 10 calendar days.

5C. PUBLIC HEARING – 1060 Hiller Street

To consider a Single Family Design Review to construct a 574 square foot addition to the existing 1,338 square foot single-family residence for a total of 1,912 square feet that is below the zoning district permitted 2,549 square feet for the site. (Appl. No. 2007-0010)

APN: 043-336-060; Zoned: R-1C (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15303

APPLICANT/OWNER: Rhodrigo Kho

PROJECT PLANNER: Damon DiDonato, (650) 637-2908

SP DiDonato summarized the staff report, recommending approval of the application subject to the conditions in the staff report. He confirmed that the upper attic was part of the original home and is included in the 1338 sq.ft. calculation.

Chair Parsons opened the Public Hearing. No one came forward to speak.

MOTION: By Vice Chair Frautschi, seconded by Commissioner Wozniak, to close the Public Hearing. Motion passed 7/0 by voice vote.

Vice Chair Frautschi thanked staff for its lucid and thorough hardscape analysis, and supported the proposal.

MOTION: By Wozniak, seconded by Commissioner Horton, to adopt the resolution approving a Single-Family Design Review for 1060 Hiller Street (Appl. No. 2007-0010) with conditions attached.

Ayes: Wozniak, Horton, Mayer McKenzie, Mercer, Frautschi, Parsons

Noes: None

Motion passed 7/0

Chair Parsons stated that this item may be appealed to the City Council within 10 calendar days.

5B. PUBLIC HEARING – 300 EL CAMINO REAL (Continued from 6/5/07 and 7/17/07 Planning Commission Meetings)

To consider a Conditional Use Permit to allow a Cabaret Use, and extended hours at Shalizaar Restaurant. (Appl. No. PA2007-0012). APN: 044-173-180; ZONING: C-3 (Highway Commercial)

CEQA Status: Categorical Exemption per Section 15301

APPLICANTS/OWNERS: Saeed and Narges Ayagh

PROJECT PLANNER: Damon DiDonato, (650) 637-2908

SP DiDonato summarized the staff report, adding that staff will be meeting with SamTrans at the site the following Monday to determine if the bus stop in front of the restaurant could be relocated. Some of the criteria for relocation would be the safety of the bus stop operation, ADA accessibility and the service needs of SamTrans. Additionally, Vice Chair Frautschi had submitted some conditions that he felt needed clarification and a revised resolution with conditions was placed on the dais prior the meeting. Changes of a substantive nature were: 1) notification requirements were changed from 300 feet to 500'; and 2) added language in terms of notification for when a floating day would occur similar to the Hola's restaurant notification. Staff believes that the findings can be made in the affirmative and recommended approval subject to the conditions in the staff report.

Chair Parsons noted for anyone looking at the staff report on the internet that the top of page 4 has been corrected to read "12 floating days per year (Sunday through Thursday) - 5:00 p.m. to 10:00 p.m. (establishment closes at 11:00 p.m.)"

Commissioner Mayer asked if the dancing and music is to be a daily, permanent fixture of the restaurant or is it contingent on the live entertainment portion of the Conditional Use Permit. SP DiDonato responded that the dancing is a part of the live entertainment – it can only occur on those evenings when live entertainment is authorized. Commissioner Mayer asked if they could specify what the type of entertainment will be or can they only specify the number of performers. SP DiDonato responded that in this particular case they can specify the maximum number of performers because that is a condition of the Fire Department.

Commissioner Wozniak asked if there was any reason they could not notify residents as well as property owners. SP DiDonato clarified that the condition was changed to include notification of residents as well as property owners within 500 feet.

Chair Parsons opened the Public Hearing.

M. Agah, Belmont resident, stated that he has known the applicants for a long time and that they are honest people who do not have any intention to make problems for the neighbors and other people.

Bobby Grace, Belmont resident, asked if Vans were to apply for a cabaret permit in order to compete, is there any kind of City ordinance that would control the number of cabaret permits

that can be issued within a certain area. SP DiDonato responded that there is nothing in the code that restricts the number of cabaret uses based on the proximity of another cabaret use. Chair Parsons added that each cabaret license is addressed as an individual license, and would be required to comply with whatever the City sets forth as guidance.

Farhad Teymouteh, Belmont resident, recalled the eyesore that the property was for the longest time and appreciated the effort and investment that the applicant has put into it. He stressed that the restaurant will become a destination for people who do not necessarily frequent the area, and nearby businesses will benefit as well, resulting in more revenue for the City.

Massoud Taherian, Belmont resident, stated that he believed the word “cabaret” is misleading the understanding of the people as this is a family restaurant that wants to be able to have music for family birthdays, weddings, and so forth.

MOTION: By Vice Chair Frautschi, seconded by Commissioner Mayer, to close the Public Hearing. Motion passed 7/0 by voice vote.

Commissioner Wozniak felt that the application had evolved in a good direction and was something she could approve. She commented to the neighbors that if it does become a problem they have to speak up and be clear and persistent, and also let the restaurant know when it is working. She added that she would not vote to allow another cabaret license in the vicinity.

Commissioner McKenzie was pleased with the way the applicant had developed this project and felt it is going to be a quality asset to the City of Belmont. He still had difficulty with the wording that says that the patrons will select the entertainment at each occasion, and felt that needed to be pinned down.

Commissioner Horton believed that the project actually looks better than it did on paper and that they reached a good and equitable compromise between what’s right for Belmont and still allow commercial businesses to flourish and grow.

Commissioner Mayer concurred with the previous statements and supported the project. He added that the restaurant has El Camino Real in the front, commercial establishments on two sides and the residences are on the back side and quite a distance away, and that the homes near Hola are much closer to the entertainment than they are in this case.

Commissioner Mercer stated that her concerns have been resolved, noting that her concern had been not so much with this restaurant but what the next recipient of this CUP might do when this restaurant is phenomenally successful and moves on to a bigger location. She believes the specific conditions spelled out in the CUP will make it workable for the neighbors, and that it will be controlled and monitored by the Planning Department and the 6-month checkup. She added that they need to call the City right away if they suspect a violation of the noise ordinance.

Quoting from the Belmont General Plan, Vice Chair Frautschi read that Policy 2025 seeks “to promote the establishment of commercial uses which meet the needs for local residents.” He

interpreted that to mean all the residents of Belmont in general and the residents that are geographically closest to the applicant's site in particular. Since the neighbors have continuously called for at least a narrow issuing of a cabaret license for this restaurant, he felt compelled as a Planning Commissioner to carefully consider geography of this particular location in light of the hills and the real potential for obtrusive sound travel, weighing that with requests from surrounding neighbors for some peace and quiet. He would rather err on the side of restraining caution with respect to granting extended hours of operation and potential noise impacts on the surrounding neighborhood, and then if the issues prove to be non-existent or fail to develop, changes to the CUP might be sought at a future time. In an attempt to balance the needs expressed by the applicant at an earlier meeting and in deference to the surrounding neighbors who will have to live with the Commission's decision, he proposed changing Condition 5 of Exhibit A so that all types of cabaret entertainment would end by 10 p.m. regardless of the day of the week and closure would be 11 p.m. regardless of the day of the week, noting that his proposition allows cabaret use starting at 11 a.m. to allow for special events like birthday parties or office parties that happen during the daytime. He added that he is a real patron of the San Mateo restaurant and this has nothing to do with the food or good service or the beautiful building; it has to do with the hours of operation and its impact on the neighbors.

Chair Parsons could support the proposal as presented by staff. If they have to make changes it can be done at the 6-month review. He trusts and hopes that the restaurant is going to do the right thing. With respect to comments on the people in the restaurant selecting their entertainment, he stated that that has to be with the caveat that the management of the restaurant has to approve the entertainment since they are the ones who are going to be the first line of making sure that they comply with the cabaret license.

Responding to a question from Commissioner Mercer as to whether or not there are protections in the code against entertainment that is off-color, CA Zafferano stated that the general first amendment issues relating to entertainment which is defined by California and Federal courts as "obscene," and that the proposed entertainment here does not meet that definition. Aside from that there are no restrictions in City codes as to the nature or type of entertainment or who can engage or who can be the entertainer and those conditions are not found in any of the proposed conditions of approval for that reason.

For clarification, CDD de Melo pointed out that Condition 5 starts out reading "Live entertainment and dancing by patrons shall be permitted on Fridays and Saturdays until 11:30 p.m. with restaurant closure by midnight." That could infer that entertainment could start as early as the restaurant opens on Friday or Saturdays which could be 7 a.m. He felt this was a good opportunity for the Commission to specify on what time entertainment could start on Friday and Saturday.

MOTION: By Commissioner McKenzie, seconded by Commissioner Mayer, to adopt a resolution approving a Conditional Use Permit for 300 El Camino Real (Appl. No. PA 2007-0012) with conditions attached, with the change to Condition 5 that the hours of entertainment on Fridays and Saturdays be permitted to begin at 11 a.m.

Ayes: McKenzie, Mayer, Horton, Mercer, Wozniak, Parsons

Noes: Frautschi

Motion passed 6/1

Chair Parsons stated that this item may be appealed to the City Council within 10 calendar days.

It was announced that the restaurant plans to open on September 18th.

6. REPORTS, STUDIES AND UPDATES:

CDD de Melo reported as follows:

A. NDNU (Koret) Athletic Field

Responding to the Commission's direction at their last meeting, a revocation hearing has been set for November 20th, and staff has contacted the Peninsula Conflict Resolution Center regarding a mediator, and will firm up details within the next few days. The current Task Force is scheduled to meet on September 6th in advance of the whistle test that will occur on September 13th, as well as an acoustic field visit, and a September 22nd game that the acoustic engineer of record is scheduled to attend in order to test real live game sounds. This item will continue to be on the agenda and he will continue to provide any updates. He noted that there was a call received by the Police Department on August 8th on a concern raised about activity on the field earlier than the hours of operation, but upon further discussion with the Police Department and the reporting party, no police units rolled.

B. Avanti Pizza Commercial Center – 2040 Ralston Avenue

He had received a concept revised landscape plan the day before, and he will call it slightly underwhelming but it is a start. It includes some grass improvements as it rounds the corner going from Ralston to Alameda de las Pulgas, two new trees and some additional shrubs. He will be working with the property to flush out more details. Commissioners were invited to visit his office to see the plan and it will be coming to them at a future meeting.

C. US 101/ Marine Parkway Landscaping Project

A meeting was held the day before with staff, the Public Works Department, Council and Commission to discuss next steps for inclusion of Planning Commission comments on the Landscape Plan to get those comments to CalTrans. The meeting was productive in that regard; they will probably want to work look to participation from the Commission in terms of an additional Commissioner. Commissioner Mayer had expressed interest in serving on this task force. Commission comments and concerns will be given to the landscape architect in charge of the CalTrans project and actually schedule a meeting with the landscape architect so they can include the modified plant selections as part of the overall package.

D. 2996 Hallmark Drive

The landscaping is to be installed in October to take advantage of moist conditions for that plan. The applicant/owner is confident of that date and they haven't wavered thus far. The Commission should expect the landscaping to be installed within about 60 days.

E. Motel 6 – 1101 Shoreway Road

No significant update. He will be meeting with the Police Department to access service call questions over the last couple of weeks, if not months. The last time this was on the agenda was May or June for an update. This will also stay on the agenda in an on-going fashion but he will have better information from the Police Department at the next meeting.

2850 Belmont Canyon Road

An appeal was filed by the applicant the previous Friday for the home the Commission reviewed at 2850 Belmont Canyon Road. They are working on a projected date before the City Council.

Chuck's Donuts

Commissioner Mayer asked about the trees installed at Chuck's Donuts – they look pretty sad and spindly. CDD de Melo agreed to continue to monitor that site.

Commissioner Mayer noticed in the paper that day that **NDNU** was ranked the number 43 university in the country by *U. S. News and World Report*

CDD de Melo pointed out that the first meeting in January 2008 would fall on New Year's Day, and since City Hall will be closed the preceding week, it would be difficult to get a packet together for January 2nd. With consent of the Commission, it was agreed that the **first meeting in January will be cancelled**. In addition, since the election will be held on November 6th, it was agreed that the **first meeting in November will be held on Wednesday, November 7th**.

7. CITY COUNCIL MEETING OF TUESDAY, September 11, 2007

Liaison: Commissioner Mercer
Alternate Liaison: Vice Chair Frautschi

8. ADJOURNMENT:

The meeting was adjourned at 8:20 p.m. to a regular meeting on Tuesday, September 4, 2007, at 7:00 p.m. in Belmont City Hall.

Carlos de Melo
Planning Commission Secretary

*CD's of Planning Commission Meetings are available in the
Community Development Department.
Please call (650) 595-7416 to schedule an appointment.*